

# HOUSE BILL 856

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CF SB 332

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By: **Delegates Barkley, Barnes, Frick, Haddaway–Riccio, Hucker, Jameson,  
Love, W. Miller, S. Robinson, and Vaughn**

Introduced and read first time: February 11, 2011

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Gas Companies – Infrastructure Replacement – Surcharge**

3 FOR the purpose of authorizing a gas company to file a certain plan with the Public  
4 Service Commission to recover certain costs associated with certain gas  
5 infrastructure replacement projects through a certain surcharge on customers'  
6 bills; stating the intent of the General Assembly; requiring a certain plan to  
7 include certain elements; prohibiting a monthly surcharge from exceeding  
8 certain amounts for certain classes of gas customers; requiring a gas company to  
9 include certain factors when calculating a certain cost; providing a method for  
10 calculating a certain pre–tax rate of return on a gas company’s investment in a  
11 certain project; requiring the Commission to hold a public hearing before taking  
12 final action on a certain plan; requiring the Commission to take final action to  
13 approve or deny a certain plan within a certain time period; requiring the  
14 Commission to approve a certain plan under certain circumstances; authorizing  
15 a gas company to implement a certain plan without the Commission’s approval  
16 under certain circumstances; requiring a gas company implementing a certain  
17 plan without the Commission’s approval to refund a certain portion of the  
18 surcharge, with interest, under a certain circumstance; prohibiting the  
19 Commission from considering certain factors when reviewing a certain plan for  
20 approval or denial, except under certain circumstances; requiring a gas  
21 company to file an amendment to a certain plan each year with the Commission  
22 to adjust the amount of the surcharge for a certain purpose; establishing certain  
23 amendment procedures and the duties of a gas company and the Commission if  
24 a certain surcharge is adjusted; prohibiting the Commission from reducing the  
25 authorized rate of return on common equity or other measure of utility profit as  
26 a result of the implementation of a certain plan; requiring a gas company to file  
27 a revised rate schedule with the Commission to subtract certain costs from the  
28 surcharge total under certain circumstances; defining certain terms; and  
29 generally relating to a gas infrastructure replacement surcharge.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – Public Utilities  
3 Section 4–210  
4 Annotated Code of Maryland  
5 (2010 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Public Utilities**

9 **4–210.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
11 MEANINGS INDICATED.

12 (2) “CUSTOMER” MEANS A RETAIL GAS CUSTOMER.

13 (3) “ELIGIBLE INFRASTRUCTURE REPLACEMENT” MEANS A  
14 REPLACEMENT OR IMPROVEMENT IN THE EXISTING INFRASTRUCTURE OF A GAS  
15 COMPANY THAT:

16 (I) IS MADE ON OR AFTER JUNE 1, 2011;

17 (II) IS DESIGNED TO IMPROVE PUBLIC SAFETY OR  
18 INFRASTRUCTURE RELIABILITY;

19 (III) DOES NOT INCREASE THE REVENUE OF A GAS COMPANY  
20 BY CONNECTING AN IMPROVEMENT DIRECTLY TO NEW NATURAL GAS  
21 CUSTOMERS;

22 (IV) REDUCES OR HAS THE POTENTIAL TO REDUCE  
23 GREENHOUSE GAS EMISSIONS THROUGH A REDUCTION IN NATURAL GAS  
24 SYSTEM LEAKS; AND

25 (V) IS NOT INCLUDED IN THE CURRENT RATE BASE OF THE  
26 GAS COMPANY AS DETERMINED IN THE GAS COMPANY’S MOST RECENT BASE  
27 RATE PROCEEDING.

28 (4) “PLAN” MEANS A PLAN THAT A GAS COMPANY FILES UNDER  
29 SUBSECTION (D) OF THIS SECTION.

30 (5) “PROJECT” MEANS AN ELIGIBLE INFRASTRUCTURE  
31 REPLACEMENT PROJECT PROPOSED BY A GAS COMPANY AS PART OF A PLAN  
32 UNDER THIS SECTION.

1           **(B) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE**  
2 **PURPOSE OF THIS SECTION IS TO PROMOTE GAS INFRASTRUCTURE**  
3 **IMPROVEMENTS IN THE STATE BY ESTABLISHING A MECHANISM FOR GAS**  
4 **COMPANIES TO PROMPTLY RECOVER INVESTMENTS IN ELIGIBLE**  
5 **INFRASTRUCTURE REPLACEMENT.**

6           **(C) THIS SECTION DOES NOT APPLY TO A GAS COOPERATIVE.**

7           **(D) (1) A GAS COMPANY MAY FILE A PLAN WITH THE COMMISSION TO**  
8 **REQUEST AUTHORIZATION TO INCLUDE A SURCHARGE ON CUSTOMERS' BILLS**  
9 **TO RECOVER THE REASONABLY INCURRED COSTS ASSOCIATED WITH PROPOSED**  
10 **ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECTS.**

11           **(2) A PLAN UNDER THIS SUBSECTION SHALL INCLUDE:**

12                   **(I) A TIMELINE FOR THE COMPLETION OF EACH PROPOSED**  
13 **ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECT;**

14                   **(II) THE ESTIMATED COST OF EACH PROJECT;**

15                   **(III) A SCHEDULE FOR THE RECOVERY OF REASONABLY**  
16 **INCURRED COSTS ASSOCIATED WITH EACH PROJECT THROUGH A SINGLE**  
17 **SURCHARGE ADDED TO CUSTOMERS' BILLS; AND**

18                   **(IV) AN EXPLANATION OF HOW THE PLAN BENEFITS**  
19 **CUSTOMERS AND WHY THE PLAN IS PRUDENT AND REASONABLE.**

20           **(3) A SCHEDULE FOR RECOVERY OF THE COSTS ASSOCIATED**  
21 **WITH PROJECTS INCLUDED IN THE PLAN UNDER PARAGRAPH (2) OF THIS**  
22 **SUBSECTION MAY NOT INCLUDE A MONTHLY SURCHARGE EXCEEDING:**

23                   **(I) \$2 FOR RESIDENTIAL GAS CUSTOMERS; OR**

24                   **(II) \$5 FOR NONRESIDENTIAL GAS CUSTOMERS.**

25           **(4) (I) WHEN CALCULATING THE ESTIMATED COST OF A**  
26 **PROJECT UNDER PARAGRAPH (2) OF THIS SUBSECTION, A GAS COMPANY SHALL**  
27 **INCLUDE:**

28                   **1. THE PRE-TAX RATE OF RETURN ON THE GAS**  
29 **COMPANY'S INVESTMENT IN THE PROJECT;**

1                                   2.    DEPRECIATION ASSOCIATED WITH THE PROJECT;  
2    AND

3                                   3.    PROPERTY TAXES ASSOCIATED WITH THE  
4    PROJECT.

5                                   (ii) 1.    THE PRE-TAX RATE OF RETURN UNDER  
6    SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE CALCULATED USING THE  
7    GAS COMPANY'S CAPITAL STRUCTURE AND WEIGHTED AVERAGE COST OF  
8    CAPITAL AS APPROVED BY THE COMMISSION IN THE GAS COMPANY'S MOST  
9    RECENT BASE RATE PROCEEDING.

10                                  2.    THE PRE-TAX RATE OF RETURN SHALL INCLUDE  
11    AN ADJUSTMENT FOR BAD DEBT EXPENSES AS APPROVED BY THE COMMISSION  
12    IN THE GAS COMPANY'S MOST RECENT BASE RATE PROCEEDING.

13                                  (e) (1) (i)    BEFORE THE COMMISSION TAKES FINAL ACTION ON A  
14    PLAN, THE COMMISSION SHALL HOLD A PUBLIC HEARING ON THE PLAN.

15                                  (ii)    WITHIN 180 DAYS AFTER A GAS COMPANY FILES A PLAN  
16    UNDER SUBSECTION (D) OF THIS SECTION, THE COMMISSION SHALL TAKE A  
17    FINAL ACTION TO APPROVE OR DENY THE PLAN.

18                                  (iii)   THE COMMISSION SHALL APPROVE A PLAN IF THE PLAN  
19    INCLUDES THE ELEMENTS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

20                                  (2) (i)    IF THE COMMISSION DOES NOT TAKE FINAL ACTION TO  
21    APPROVE OR DENY A PLAN WITHIN THE TIME PERIOD PROVIDED UNDER  
22    PARAGRAPH (1) OF THIS SUBSECTION, A GAS COMPANY MAY IMPLEMENT THE  
23    PLAN WITHOUT THE COMMISSION'S APPROVAL.

24                                  (ii)    IF A GAS COMPANY IMPLEMENTS A PLAN WITHOUT THE  
25    COMMISSION'S APPROVAL, THE GAS COMPANY SHALL REFUND TO CUSTOMERS,  
26    WITH INTEREST, ANY AMOUNT OF THE SURCHARGE THAT THE COMMISSION  
27    SUBSEQUENTLY DETERMINES IS UNJUSTIFIED.

28                                  (3)    UNLESS A PLAN IS FILED IN CONJUNCTION WITH A RATE  
29    CASE, THE COMMISSION MAY NOT CONSIDER ANY OTHER REVENUE  
30    REQUIREMENT OR RATEMAKING ISSUE WHEN REVIEWING A PLAN FOR  
31    APPROVAL OR DENIAL UNDER THIS SUBSECTION.

32                                  (f) (1)    TO ACCOUNT FOR ANY DIFFERENCE BETWEEN THE  
33    ESTIMATED COST OF THE PROJECTS IN A PLAN AND THE AMOUNT RECOVERED  
34    UNDER THE SURCHARGE, A GAS COMPANY SHALL FILE WITH THE COMMISSION

1 EACH YEAR AN AMENDMENT TO THE PLAN TO ADJUST THE AMOUNT OF THE  
2 SURCHARGE.

3 (2) WITHIN 90 DAYS AFTER THE GAS COMPANY FILES AN  
4 AMENDMENT TO A PLAN UNDER THIS SUBSECTION THE COMMISSION SHALL  
5 TAKE A FINAL ACTION TO APPROVE OR DENY THE GAS COMPANY'S AMENDMENT.

6 (3) (I) IF THE ACTUAL COST OF THE PROJECTS IN A PLAN IS  
7 LESS THAN THE AMOUNT COLLECTED UNDER THE SURCHARGE, THE GAS  
8 COMPANY SHALL PROVIDE A REFUND OF THE DIFFERENCE ON CUSTOMERS'  
9 BILLS, INCLUDING INTEREST.

10 (II) IF THE ACTUAL COST OF THE PROJECTS IN A PLAN IS  
11 MORE THAN THE AMOUNT COLLECTED UNDER THE SURCHARGE, THE  
12 COMMISSION SHALL AUTHORIZE THE GAS COMPANY TO INCREASE THE  
13 SURCHARGE TO RECOVER THE DIFFERENCE, SUBJECT TO THE RATE LIMITS  
14 UNDER SUBSECTION (D)(3) OF THIS SECTION.

15 (G) THE COMMISSION MAY NOT REDUCE THE AUTHORIZED RETURN ON  
16 COMMON EQUITY OR OTHER MEASURE OF UTILITY PROFIT AS A RESULT OF THE  
17 IMPLEMENTATION OF A PLAN UNDER THIS SECTION.

18 (H) IF, AFTER APPROVING A SURCHARGE TO IMPLEMENT A PLAN UNDER  
19 THIS SECTION, THE COMMISSION ESTABLISHES NEW BASE RATES FOR THE GAS  
20 COMPANY IMPLEMENTING THE PLAN THAT INCLUDE COSTS ON WHICH THE  
21 SURCHARGE IS BASED, THE GAS COMPANY SHALL FILE REVISED RATE  
22 SCHEDULES WITH THE COMMISSION THAT SUBTRACT THOSE COSTS FROM THE  
23 SURCHARGE TOTAL.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 June 1, 2011.